

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AETNA LIFE INSURANCE COMPANY,

Plaintiff,

v.

MART T. COSMAN, and HARRY P.
COSMAN,

Defendants.

Civil Action No. 04-11046-RGS

**ASSENTED-TO MOTION OF AETNA LIFE INSURANCE COMPANY
FOR AN ORDER ON MONEY PAID INTO COURT**

Pursuant to Local Rule 7.1, plaintiff Aetna Life Insurance Company ("Aetna") respectfully requests that the Court enter an order granting Aetna leave to pay life insurance proceeds into the Court's registry. For the convenience of the Court, a proposed Order is in a form acceptable to all parties is attached hereto as Exhibit "A."

As grounds for this Motion, Aetna states that it insured the life of Robert J. Cosman ("Robert"). After Robert died the defendants filed conflicting claims for the insurance benefits available under the life insurance policy Aetna issued to Robert. Aetna is a disinterested stakeholder in this interpleader action and it admits that the policy proceeds are due and owing to someone. In filing this interpleader action Aetna is seeking to avoid incurring multiple liability by depositing the life insurance proceeds into court. *See* 28 U.S.C. § 1335(a)(1). Allowing Aetna to pay the proceeds on Robert's life insurance policy into the Court's registry and releasing it from any further liability to the defendants regarding Robert's life insurance policy will serve to narrow the areas of disagreement between the litigants, and will serve to secure a just, speedy and inexpensive determination of this action. Since there are adverse claims to Robert's life insurance benefits this interpleader action is justified and is in accordance with well-settled law

*Filed in
open
ct.
on
10-25-04
M. J. for
reg.
clerk*

allowed. R.J. Cosman 10-25-04

- 2 -

in this jurisdiction. *See e.g., Metropolitan Property and Casualty Ins. Co. v. Shan Trac, Inc.*, 324 F.3d 20 (1st Cir 2003). Further, no party will be prejudiced by Aetna's paying the disputed death benefit into Court.

Inasmuch as the relief sought by Aetna in this Motion is within the sound discretion of the Court, a supporting memorandum of law is not necessary.

WHEREFORE, Aetna respectfully requests that the Court grant this Motion and issue an order on money paid into court.

AETNA LIFE INSURANCE COMPANY
By its attorney,



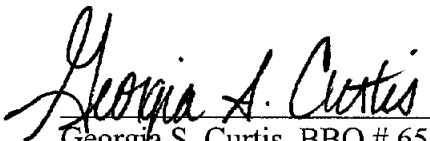
Edward P. O'Leary, BBO #551932
Fitzhugh, Parker & Alvaro LLP
155 Federal Street
Boston, MA 02110
(617)695-2330

MARY T. COSMAN,
By her attorney,



David C. McBride, BBO #326910
Law Office of David C. McBride
19 Cherry Street
Danvers, MA 01923
(978) 777-7733

HARRY P. COSMAN,
By his attorney,



Georgia S. Curtis, BBO # 650214
Simms & Simms, LLP
53 Arlington Street
Brockton, MA 02301
(508) 588-6900

Dated: October 25, 2004